



CNMI SHRM

P.O. Box 5130 CHRB
Saipan, MP 96950



The NMI Society for Human Resource Management: Where we stand.

The Northern Mariana Islands Chapter of the Society for Human Resource Management feels that it is important to speak out on behalf of its members and the employers and employees that they represent regarding the employment situation in the Commonwealth. When we say “employment situation,” that is a much broader topic than just the CW-1 cap problem that we presently face. We are referring, of course, to the recent meeting the limit for 2016 CW-1 worker approvals, and the notice that existing workers and their families must depart the CNMI within ten days from visa expiration, regardless of length of service, the needs of the employer, U.S.-citizen kids, rental leases, new car loans, age, health or other problems.

First, before addressing this situation, an introduction – the NMI Society for Human Resource Management is an association of the Commonwealth’s human resource professionals, its HR Directors, Managers and Staff, who provide an essential link between management and employees – accountable to the employer for assisting in the effective management of its resources and to the employees for ensuring that the employment agreement between the company and its employees is fulfilled. The present CW-1 cap situation that we presently face is a problem for both the employers and the employees.

We knew the cap was there – it’s in the regulation and it’s announced annually by the U.S. Secretary of Homeland Security. We never came close to the cap before and didn’t give it much thought. Our worry was about the CW program ending in 2019 and the possibility of long-term workers being required to leave. Suddenly, we’re shocked with the announcement that long-term and key employees -- and their families -- will have to leave now and throughout the summer in 2016, not in 2019. We thought they were protected and that, even if the cap were reached, the denial would be for the new workers, not those we had worked with for 10-15-20 or more years. Our first reaction was to blame USCIS for not giving the existing workers priority over new petitions. That was wrong. They couldn’t deny a valid request for a visa because of an assumption that an existing worker would be extended. USCIS’ system, it appears, is to start counting new approved visa and extensions from October 1 up until it reaches the cap. This is a logical way to do it, but it doesn’t give consideration or priority to long-term workers. As a result, we have the sad situation that we face now with friends and co-workers, and their families, being required to leave the Commonwealth with short notice and no prior planning on their part or their employers.

So what can we do about our immediate CW problem? This is a situation that, even though it causes significant difficulty to both employees, and their families, and to employers, is in accordance with U.S. law and regulation. What can the employees do? What can the Employers do? What can SHRM do?

- In all cases, work with the CNMI Government, our Congressional Representative, and the federal government agencies to find a means of retaining our workers and their families

within the CNMI in a lawful status, preferably in a work status, until they can be re-petitioned or approved on October 1, 2016.

- Recognizing that this situation will occur again next year, work with our Government Officials at all levels to find some way of preventing it.
- Knowing that the Consolidated Natural Resources Act of 2008 (CNRA) will not work and that there is an immediate need for a growing number of workers in the CNMI economy, not a decreasing demand, work with our Government Officials at all levels to find a long term solution. The law was passed at a time when the CNMI economy was in a decline. That's not the situation now. The CNMI economy is now expanding. Because of the upswing in investment in the Commonwealth, the demand for skilled and unskilled labor presently outpaces the available labor pool. The law no longer fits our situation and, if not amended, will be disastrous for the CNMI.
- Make sure that our Governor, our Congressman, our Legislature and all other officials, devoting time and effort to resolving this problem, know that their efforts are appreciated.

What can USCIS do to lessen the impact of this situation?

- What they cannot do is change or act counter to the law or regulation. Changes to the law or regulation are long term and can only be accomplished at a higher level.
- By simply sitting on the petitions, not rejecting or denying them, the regulation provides that the workers would remain in lawful status while the petitions were pending, the recent change to the regulation would allow the workers to work for up to 240 days, which would carry them up to October, at which time the visa could be approved and counted toward the 2017 limit.
- Understand the hardship this unexpected situation places on workers and their families, as well as businesses losing key staff without replacements, and work with CNMI government representatives to find ways to allow these workers and their families to remain in the CNMI and work until they can be counted toward the 2017 limit.
- Know, also, that we appreciate their efforts to work with our Congressman and our Governor to find a resolution to this sad situation.

What can we, as HR Professionals and Employers, do on a longer term basis?

- Ensure that I-129 petition forms are filled out correctly and that workers being hired for second jobs are placed in the proper classification category as concurrent workers (Part 2.2.d) and not as new workers (Part 2.2.a) which will cause them to be counted twice.
- Put CW workers on other visas for which they might qualify. That's H-1B, H-2B, E-2 in some cases, and green cards, both employment and family-based. There are limited jobs that qualify as H-1B specialty workers, but they should be converted where possible to free-up CW visas. If construction and project workers can be petitioned as H-2B workers, do it. Foreign owned companies should explore E-2 visas for key managers and specialist

employees. Employment and family-based immigrant green cards lead to citizenship pathways. These actions will provide longer term status and protection for workers and free-up CW slots for growth.

- Increase efforts to hire U.S. citizen workers. Provide training programs. Work with the WIA and co-op programs to get more young local workers experienced and ready for employment. Encourage the return of students and ex-military with internships and management-training opportunities.
- Encourage the CNMI Government to work with USCIS in developing a new system that does provide priority to existing employees' extensions. Support the government in the establishment of an agency that reviews visa requests to ensure that they are requesting the proper visa and will not diminish the opportunities for valid CW use. Work with the CNMI and federal governments to find a post-2019 solution to the Commonwealth's long term employment needs.
- Live up to our responsibilities to those CW-1 employees who must exit by taking responsibility for all costs of the employees' repatriation, as required by the CNMI Labor Regulations [NMIAC § 80-20.1-330 (u)]. Make sure they are aware of the future employment difficulties caused by remaining in the CNMI out-of-status.
- Keep our affected employees informed at all times of their status and legal requirements, as well as what efforts are being made on their behalf.

The NMI SHRM Chapter is an all-volunteer organization established in the CNMI in 1997 with defined purposes of promoting a better understanding of the mutual problems affecting those engaged in human resource work and facilitating the operational effectiveness of human resource professionals. We are now in a situation where those purposes for our organization come fully into play. It's vital that we all work together as HR Professionals and as representatives of our companies to do our best to resolve this situation for both the short and long term, for the present and the future. In the short term it may cost us a bit more, but the steps mentioned above are necessary to prepare for the promising and exciting future that lays ahead for our employees, our businesses and our community.

The NMI SHRM will do its best to assist its Members and Stakeholders, their employees and businesses, the Community and our Government, in any way possible. It has been, and will continue, working with our government Officials to express our concern and offer our support in any way possible.

The 2016 NMI SHRM Board: Josephine Mesta – President, Esther Ada – Vice President, Nhing Reyes – Treasurer, Pina Deleon Guerrero – Secretary, Bertha Leon Guerrero – Member, Ernesto Lacorte – Member, Malou Ernest – Past President & Advisor, Frank Gibson – Immediate Past President

SHRM: Leading People. Leading Organizations.

Contact any Board Member or e-mail shrmnmichapter@gmail.com regarding the Chapter or Membership.